

BARRACK, RODOS & BACINE  
 STEPHEN R. BASSER (121590)  
 sbasser@barrack.com  
 sward@barrack.com  
 600 West Broadway, Suite 900  
 San Diego, CA 92101  
 Telephone: (619) 230-0800  
 Facsimile: (619) 230-1874

ROBBINS GELLER RUDMAN & DOWD LLP  
 Theodore Pintar (131372)  
 tedp@rgrdlaw.com  
 655 West Broadway, Suite 1900  
 San Diego, CA 92101  
 Telephone: (619) 231-1058  
 Facsimile: (619) 231-7423

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*Counsel for Plaintiff*

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

In re CONSECO INSURANCE CO.  
 ANNUITY MARKETING & SALES  
 PRACTICES LITIG.

Case No.: C-05-04726-RMW

**CLASS ACTION**

\_\_\_\_\_  
 This Case Relates To:

**STIPULATION AND ORDER FOR  
 SCHEDULING CLASS CERTIFICATION  
 ISSUES AND ORDER**

ALL ACTIONS.

**STIPULATION**

Whereas, the Parties delayed proceedings on class certification issues while exploring settlement possibilities and proceeding to mediation with Judge Edward Infante (ret.) on three occasions, including February 25, 2010 and March 11, 2010;

Whereas, the Parties, having previously been unable to resolve this lawsuit, believed that the case should move forward, even as they continued to explore settlement;

Whereas, Plaintiff filed his Motion for Class Certification and supporting documents on June 7, 2010 to which Defendants responded on August 21, 2010;

1       Whereas, the hearing on Plaintiff's Motion for Class Certification is presently scheduled  
2 for October 8, 2010;

3       Whereas, on September 14 and 15, 2010, the Parties engaged in further meaningful face-to-  
4 face settlement negotiations;

5       Whereas, the Parties are continuing final phases of negotiation that they believe may  
6 achieve a full and final settlement in resolution of this action;

7       Whereas, the Parties believe in good faith that the interests of efficient case management  
8 and judicial economy merit a continuance of the pending hearing on Plaintiff's Motion for Class  
9 Certification to allow them to fully concentrate their efforts on reaching an amicable resolution,  
10 and;

11       Whereas, the Parties believe that suspending all class certification discovery or briefing for  
12 a reasonable period to allow them sufficient time to complete final settlement negotiations is  
13 necessary.

14       Now, therefore, Plaintiff and all Defendants hereby stipulate and agree to the following  
15 revised schedule for class certification, subject to the Court's approval:

16       1.     The hearing on Plaintiffs Motion for Class Certification shall be continued to  
17 December 3, 2010;

18       2.     Plaintiff shall file his reply to Defendants' response to the Motion for Class  
19 Certification on or before November 24, 2010;

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3. If the matter is settled, the Parties will apply for preliminary approval within sufficient time so that such application shall be heard on December 3, 2010 in lieu of the motion for class certification.

DATED: September 27, 2010

/s/ THEODORE PINTAR  
ROBBINS GELLER RUDMAN &  
DOWD  
Co-Lead Attorneys for Plaintiff  
Theodore Pintar  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
(619) 231-1058

/s/ JAMES J. DRIES  
BAKER & MCKENZIE LLP  
Thomas A. Doyle  
James J. Dries  
One Prudential Plaza  
130 East Randolph Drive, Suite 3500  
Chicago, IL 60601  
(312) 861-8000

/s/ STEPHEN R. BASSER  
BARRACK, RODOS & BACINE  
Co-Lead Attorneys for Plaintiff  
Stephen R. Basser  
One America Plaza  
600 West Broadway, Suite 900  
San Diego, CA 92101  
(619) 230-0800

**ORDER**

The Court having considered the above stipulation and good cause appearing,

IT IS HEREBY ORDERED that the parties shall comply with the schedule set forth above.

IT IS FURTHER ORDERED that the hearing on Plaintiff's Motion for Class Certification shall be scheduled for December 3, 2010, at 9:00 a.m. in Courtroom 6 of this Court.

IT IS FURTHER ORDERED that should the parties achieve an amicable resolution of the action via settlement, they shall work diligently to prepare and execute settlement documents and shall seek preliminary approval of the settlement on December 3, 2010 at 9:00 a.m. in Courtroom 6 of this Court, in lieu of a hearing on Plaintiff's Motion for Class Certification on that date.

DATED: 10/4/10

  
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Ronald M. Whyte  
United States District Court Judge